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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**SUO MOTO WRIT PETITION NO.1 OF 2014
WITH
CRIMINAL APPLICATION NO.213 OF 2015**

High Court on its Own Motion

..Petitioner.

V/s.

The State of Maharashtra and Ors.

..Respondents.

Mr.A.H.Ponda i/b. Manjula Biswas for the petitioner.

Mr.S.K.Shinde, PP with Mrs.S.V. Sonavane, APP for respondent-State.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.**

DATED : 22ND FEBRUARY, 2016

P.C. :-

1. Heard Mr.S.K.Shinde, learned Public Prosecutor for the State and Mr.A.H.Ponda, learned counsel appearing for the petitioner.

2. An application was received requesting for giving directions to the Crime Branch for conducting investigation of C.R. No.359/2014. The application was placed before the Chief Justice. As per the order of the Chief Justice, the same was treated as Suo Moto Writ Petition and placed before

the Division Bench on 17th September, 2014 (V.M.Kanade and P.D.Kode, JJ.). Considering the grievance raised by the petitioner and the apprehension expressed, the Division Bench of this Court had directed the DCP to provide police protection to the petitioner and her family members free of charge. Accordingly, police protection has been granted to the petitioner and her family members.

3. Mr.Shinde, learned Public Prosecutor for the State urged to recall the order providing police protection to the petitioner and her family members passed by order dated 17th September, 2014 on the ground that the investigation in C.R. No.359/2014 has been conducted and 'B' summary has been filed in respect of the complaint lodged by the petitioner. He further submitted that F.I.R. bearing C.R.No.444/2014 has been registered against the petitioner with the Borivili police station, Mumbai for offence under sections 408 and 420 of the Indian Penal Code on 7th November, 2014. In the said F.I.R. the petitioner is alleged to have misappropriated an amount to the tune of ₹78 lacs. Anticipatory bail application filed by the petitioner before the Sessions Court, Mumbai has been rejected and she has now moved an application for

anticipatory bail before the High Court. He has further submitted that the Government has spent more than ₹1 crore in giving police protection to the petitioner and her family members. Every day eight constables are required to be made available for protection of the petitioner and her family members. He has submitted that in view of the fact that the complaint filed by her is found to be false and she is an accused in a case involving misappropriation of amount of ₹78 lacs, granting police protection and that too free of charge deserves to be recalled. According to him, there is no threat perception to the life of the petitioner so as to continue with police protection.

4. Mr.Ponda, learned counsel appearing for the petitioner has opposed recall of the order for providing police protection free of charge. He submits that the threat perception to the life of the petitioner still continues. She has filed three reports in respect of threats received on phone. The police have treated those reports as non-cognizable. She also was assaulted by few unknown persons who came on a motor cycle and in respect of the said incident, the petitioner has filed a report. He further submitted that the F.I.R. filed against

the petitioner for alleged misappropriation has been lodged by the officials of the college as a counter-blast to the complaint lodged by her for offence under section 376 of the Indian Penal Code. The complainant in the said case is the son-in-law of accused against whom the petitioner has filed an F.I.R. under section 376 of the Indian Penal Code. He has further submitted that police protection granted to the petitioner be continued further for a period of one month to enable the petitioner to make an application before the Commissioner of Police, Mumbai for police protection, who can take appropriate decision in the matter.

5. We have thoroughly considered the submissions advanced by both the parties. We are of the view that there is absolutely no justification to continue with the police protection to the petitioner and her family members. The fact is not in dispute that the investigation in C.R. No.359/2014 has been completed and 'B' summary has been filed in the matter. Similarly, the fact is not in dispute that the petitioner is now an accused in C.R.No. 444 /2014 registered with the Borivili police station, Mumbai wherein the allegation is that she has misappropriated amount to the tune of ₹78 lacs. The

petitioner is required for investigation in a crime registered against her and the anticipatory bail application filed by her before the Sessions Court has been rejected and now she has moved the High Court seeking anticipatory bail. The order to provide police protection to the petitioner and her family members free of costs was made for the reason that she had filed complaint against the then Minister in the State Cabinet. The person against whom she has lodged the complaint and apprehended danger to her life is no more a Minister nor he is a member of the Legislative Assembly. Therefore, the situation in the year 2013 no more survives. In such circumstances, it would not be justified to direct the State Government to continue the police protection and that too free of costs and spend public money for such protection.

6. According to learned Public Prosecutor, every day services of eight police constables are required and the State Government has spent more than ₹1 crore for providing such protection to the petitioner and her family members. The petitioner is now an accused in a case involving misappropriation of amount to the tune of ₹78 lacs. She is required for investigation in the case registered against her.

We are, therefore, not inclined to continue with the police protection granted to the petitioner vide order dated 17th September, 2014. Accordingly, order dated 17th September, 2014 is recalled. However, the petitioner is granted liberty to apply to the Commissioner of Police, Mumbai for seeking police protection. In case such a request is received, the same be examined on its own merits by the concerned authority.

7j. Subject to above the Suo Moto Writ Petition and the Criminal Application are disposed of.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)